IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.194 OF 2006

Union of India ...Petitioners

v/s

M/s S.S. Construction ...Respondents

Mr A.C. Singh with Ms S.I. Shah for Petitioners.
Mr Gaurav Joshi with Mr Vijay Panday i/b Mr D.K. Shukla for Respondents.

CORAM : D.K. DESHMUKH J.

DATE : 15TH NOVEMBER 2006.

P.C. :-

1. The learned counsel appearing for respondents in whose favour award is made, at the outset, after taking instructions from Mr Rajiv Bhatnagar, who is present in Court on behalf of respondents, states that the respondents who were claimants before the Arbitrator, do not press their claim No.1(ii) i.e. lesser sanctioned rates for extra / substituted items against which the learned Arbitrator has awarded an amount of Rs.2,33,741/- and claim No.4 i.e. claim for loss of profit against which the learned Arbitrator in the award has awarded an amount of Rs.3,18,900/-. In view of this statement, the award made by the learned Arbitrator is modified to that extent. In view of the statement made by the learned counsel appearing for petitioners referred above, the only contention raised on behalf of the petitioners and to be considered is claim No.8. Claim No.8 was divided by the learned Arbitrator into eight parts. Against the eight parts, an amount of Rs.8,42,470/- was claimed. According to the petitioners therefore, against part Nos.1 to 7 of claim No.8, only an amount less than Rs.1,00,000/- could have been claimed, but the learned Arbitrator has awarded an amount in excess of Rs.1,00,000/- against part Nos.1 to 7 of claim No.8. Therefore, according to the petitioners, the award made by the learned

Arbitrator suffers from non-application of mind. So far as this submission is concerned, the admitted position is that the claimants had made claim of Rs.9,00,000/- against claim No.8. Claim No.8 was divided in eight parts by the learned Arbitrator and not by the claimants. It is also an admitted posititon that against the entire claim No.8, an amount of Rs.6,00,000/- was awarded. Even out of that amount of Rs.6,00,000/-, the award made against claim No.1(ii) has been given up by the respondents. Therefore, the amount awarded against claim No.8 is even further reduced. Perusal of the record shows that even the bifurcation of claim No.8 appears to have been made by the learned Arbitrator on the basis of calculation submitted by the petitioners. Considering the amount awarded against claim No.8, it cannot be said that the award made by the learned Arbitrator against this claim causes any injustice to the petitioners and therefore, for that reason, the award cannot be accepted. Save and except the modification made in the award due to statement made on behalf of the respondents, the award is maintained. Petition is disposed off with no order as to costs.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.